

ROBERT HAWKINS #131159  
CHAPTER 7 TRUSTEE  
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Chapter 7 Trustee

**IN THE UNITED STATES BANKRUPTCY COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

In the Matter of

FINIS FORTNEY and  
BEVERLY FORTNEY,

Debtors.

Case No. 11-10437-B-7F  
DC No. RHT-1

**TRUSTEE'S MOTION FOR  
AUTHORIZATION TO SELL  
REAL AND PERSONAL PROPERTY  
(11 U.S.C. §363)**

Date: July 6, 2011  
Time: 10:00 a.m.  
Dept: B

**TO THE HONORABLE W. RICHARD LEE, UNITED STATES BANKRUPTCY  
JUDGE:**

Robert Hawkins respectfully represents:

1. He is the duly appointed, qualified, and acting trustee for the above-entitled estate.
2. The above-captioned case was filed under Chapter 7 on or about January 14, 2011, and an order for relief was entered. Robert Hawkins was appointed Chapter 7 Trustee.
3. This Court has jurisdiction over this proceeding by virtue of 28 U.S.C. Section 1334(b) and (d), Section 157(b)(2)(N), and 11 U.S.C. Sections 363. This is a core proceeding.
4. Among the assets of this estate is commercial real property commonly known as 2992 Larkin Avenue, Clovis, California, APN 499-421-02. Located on the subject real property is certain equipment to be included in the sale with a fair market value of \$7,625.00. Specifically excluded from this sale is all computer equipment located on the premises.
5. The Trustee has obtained an offer from Caliber Bodyworks, Inc., a California Corporation to purchase the subject property for the total sum of \$1,057,000.00 cash.

6. The Trustee has not agreed to pay any commission in connection with the sale.

7. The Trustee has reviewed the preliminary title report which indicates that the property is subject to lien secured by a deed of trust, delinquent property taxes, and multiple tax liens in favor of the Internal Revenue Service (“IRS”). The Trustee is informed and believes that the property is subject to a deed of trust lien in favor of Bank of the Sierra in the amount of approximately \$859,845.10 and secured tax liens in favor of the IRS in the total amount of \$666,217.34. The Trustee has negotiated with a representative of the IRS whereby the IRS consents to the sale and allows to be paid from the sale proceeds all administrative costs and fees and \$15,000.00 to timely filed unsecured claims. The Trustee is informed and believes that there is owed on the property delinquent property taxes totaling \$70,008.81. The Trustee expects that the sale will pay all administrative claims, will allow payment on the secured claim by the IRS of between \$80,000.00 and \$100,000.00, will pay delinquent property taxes in full, and will provide an approximate 10% (ten percent) distribution to timely filed unsecured creditors.

8. Said offer is the best and highest offer received for the property and, in the opinion of the Trustee, said offer is for the full and fair market value of the property. Said sale is subject to higher and better offer in an initial increment of \$100,000.00 and additional increments of \$10,000.00.

9. The Trustee believes that confirmation of the sale on the terms set forth above is in the best interest of the creditors of this estate and all parties in interest.

**WHEREFORE**, the Trustee prays that, after appropriate notice and opportunity to be heard, he be authorized to sell the above-described real and personal property to Caliber Bodyworks, Inc., a California Corporation, or nominee, for the total sum of \$1,057,000.00, subject to higher and better offer at the hearing on confirmation of said sale, and that the Court authorize the payment of ordinary sale costs as contemplated by the parties in order to close escrow.

**DATED: JUNE 15, 2011**

/S/Robert Hawkins  
ROBERT HAWKINS,  
Chapter 7 Trustee